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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,216	05/04/2001	Kave Eshghi	10007537-1	6368

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EXAMINER

HARRELL, ROBERT B

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/848,216	ESHGHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert B. Harrell	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 May 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-17 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 04 May 2001 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: see attached Office Action.

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1. Claims 1-17 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The claims are more directed to: SYSTEM AND METHOD FOR MONITORING CLIENT BROWSER EVENT ACTIVITIES USING A MONITORING FUNCTION DOWNLOADED BY A CLIENT WEB BROWSER VIA A URL EMBEDDED IN A WEB PAGE.
3. Use of active hyperlink and/or other forms of browser executable code is improper (see MPEP 608.01) and must be removed (see page 6 as one example, all others must also be removed). The applicant should also use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, and clarity of meaning in the Specification, Drawings, and specifically claims.
4. The following is a quotation of the second paragraph of 35 U.S.C 112:  
  
**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**
5. Claims 9 and 10 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:
6. Per claim 9, and thus dependent claim 10 through inheritance, the claim recites "script tag includes location information for a function for monitoring events on a network computer other than the web server". However, target locality cannot be clearly ascertained by examiner. That is to say, is the claim defining an invention which is monitoring events on a network computer other than the web server holding a monitoring function program (i.e., monitoring client activities as a client is a network computer other than the web server), or if the function for monitoring is located at a site other than the web server? Thus examiner is unable to determine if another web server holds the monitoring function or if what is being monitored is another web server or a client or some combination thereof.
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

- (e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an

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application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

8. Claims 1-17 are rejected under 35 U.S.C. 102 (e) as being anticipated by Pogue et al. (6,112,240).

9. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature as the whole of the reference is cited and relied upon in this action.

10. Per claim 1, Pogue et al. taught **a system for monitoring events on a network computer, comprising:**

- a) a processor (e.g., see figure 2 (205) and col. 3 (line 25 (first word "microprocessor" (which is a processor))) for downloading a web page (e.g., see Abstract (line 3 "web page")) from a web server (e.g., see figure 3 (204 "Web Server")) to a client browser (e.g., see figure 3 (200 ("Client" "Browser")))) within a network (e., see figure 3 (295 ("Internet")) and col. 3 (line 66 ("network"))), wherein the web page includes a script tag (e.g., see Abstract (line 3 ("tag")) and col. 6 (line 3 ("JavaSCRIPT TAG")))) identifying a location (e.g., see col. 6 (lines 8-9 <http://speedracer.taligent.com/cgi-bin/track?type=1>)) of a monitoring function (i.e., "tracking program" per Abstract (lines 4-6), col. 2 (lines 17-19), col. 4 (line 4 ("tracker"))), and for retrieving the monitoring function based on information in the script tag to monitor an event on the client browser (e.g., see col. 7 (lines48-50) and col. 8 (lines 11-13)); and
- b) an I/O device (e.g., see figure 2 (290) and col. 3 (lines 62-65)) for sending monitored data to a measurement computer (e.g., see Abstract (lines 4-5), and col. 4 (lines 38-54)), wherein the measurement computer is a computer other than the web server (e.g., see figure 3 where the measurement computer (31) was a computer other than the web server (312)).

11. Per claim 2, col. 5 (lines 60-67) anticipated not only monitoring time related information but other types of information such as browser type, type of computer, and "other information" all of which fall within the scope of the recited information listed in claim 2. For example, the "time" related information is clearly shown in col. 5 (lines 60-67), abort would be inferred based on the time related information, query strings formulate URLs (that embeds the query string within the URL (Official Notice), thus since URLs are tracked, so are any URLs formulated from a query string and thus query string information is collected, network connection type would be related to the type of computer accessing the web page as covered in col. 5 (lines 65-66) or who is making the connection (i.e., Internet Service Providers have much greater bandwidth, and thus a different type of network connection, than a normal client on a 28.8 modem), time zone would be derived from the client's IP address (globally assigned and lookup-able via DNS), and

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operating system (e.g., see col. 3 (line 57 ("95® operating system")) would be derived from the browser type (i.e., type of browser is covered in col. 5 (line 64 (last two words)) such as "Microsoft Internet Explorer™" in col. 6 (line 15). In short, the selection of types of data to gather was anticipated by Pogue to be any choice by those skilled in the client/server network art.

12. Per claim 3, see Abstract (lines 5-6), figure 4, figure 7, 4 (lines 40-42), and col. 7 (lines 42-44)).

13. Per claim 4, see col. 4 (lines 45-47 "at any time" (i.e., during client browsing).

14. Per claim 5, see col. 4 (lines 16-19). In that the monitoring function was automatic.

15. Per claim 6, see col. 5 (lines 60-67). As for alternate web server, such was inherently well known (i.e., refresh of a web page specifically one with advertisement (advertisements are normally stored at an alternate web server, and when it is time to refresh the web page and provide a new advertisement, the browser will be directed to a different advertisement and thus a different web server (Official Notice taken); or limited access web servers would push the client off the site to another site (i.e., one requesting more money)).

16. Per claim 7, time as been covered above, 404 errors ("The page cannot be found") are notoriously well known web server errors even to those not skilled in the art.

17. Per claim 8, see figure 3.

18. Per claims 9, 10, 11, 12, 13, 14, 15, 16, and 17, even in light of the indefinites above and to the best examiner is able to understand claim 9, and thus by inheritance claim 10, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above. That is, in claim 9, Pogue taught the monitoring function was located on a server other than the web server being accessed by the client and that a computer on the network other than the web server hold the monitoring function was the one being monitored by the tracking program all in which the tag was embedded into the web page as covered above and on col. 4 (lines 22-23); this also covers claim 11 and dependent claims thereon also covering the same limitations covered with respect to the defendant claims given above and which grounds are applied hereto.

19. A shortened statutory period for response to this action is set to expire **3 (three) months** and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

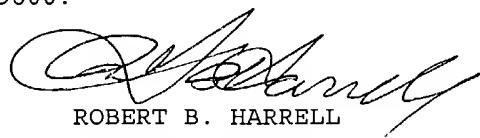
20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be

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reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (703) 308-9705. The fax phone numbers for the Group are (703) 746-7238 for After-Final, (703) 746-7239 for Official Papers, and (703) 746-7240 for Non-Official and Draft papers.

22. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL  
PRIMARY EXAMINER  
GROUP 2142